

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

_____)	
IN RE PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE	)	MDL No. 1456
LITIGATION	)	Civil Action No. 01-12257-PBS
_____	)	Subcategory Case No. 03-10643
)	
THIS DOCUMENT RELATES TO:	)	Judge Patti B. Saris
)	
<i>The City of New York v. Abbott Labs., et al.</i>	)	Magistrate Judge Marianne B. Bowler
(S.D.N.Y. No. 04-CV-06054))	
)	
<i>County of Nassau v. Abbott Labs, et al.</i>)	
(E.D.N.Y. No. 04-CV-05126))	
)	
and other cases listed on the following page)	
_____)	

**DEFENDANT MERCK & CO., INC.'S UNOPPOSED
MOTION FOR ENLARGEMENT OF TIME**

THIS DOCUMENT RELATES TO:	)	<i>County of Cortland v. Abbott Labs, et al.</i>)
<i>The City of New York v. Abbott Labs., et al.</i>	)	(N.D.N.Y. No. 05-CV-00881))
(S.D.N.Y. No. 04-CV-06054)	)	<i>County of Herkimer v. Abbott Labs, et al.</i>)
<i>County of Suffolk v. Abbott Labs., et al.</i>	)	(N.D.N.Y. No. 05-CV-00415))
(E.D.N.Y. No. 03-CV-229)	)	<i>County of Oneida v. Abbott Labs, et al.</i>)
<i>County of Westchester v. Abbott Labs., et al.</i>	)	(N.D.N.Y. No. 05-CV-00489))
(S.D.N.Y. No. 03-CV-6178)	)	<i>County of Fulton v. Abbott Labs, et al.</i>)
<i>County of Rockland v. Abbott Labs., et al.</i>	)	(N.D.N.Y. No. 05-CV-00519))
(S.D.N.Y. No. 03-CV-7055)	)	<i>County of St. Lawrence v. Abbott Labs, et al.</i>)
<i>County of Putnam v. Abbott Labs, et al.</i>	)	(N.D.N.Y. No. 05-CV-00479))
(S.D.N.Y. No. 05-CV-04740)	)	<i>County of Jefferson v. Abbott Labs, et al.</i>)
<i>County of Dutchess v. Abbott Labs, et al.</i>	)	(N.D.N.Y. No. 05-CV-00715))
(S.D.N.Y. No. 05-CV-06458)	)	<i>County of Lewis v. Abbott Labs, et al.</i>)
<i>County of Washington v. Abbott Labs, et al.</i>	)	(N.D.N.Y. No. 05-CV-00839))
(N.D.N.Y. No. 05-CV-00408)	)	<i>County of Chautauqua v. Abbott Labs, et al.</i>)
<i>County of Rensselaer v. Abbott Labs, et al.</i>	)	(W.D.N.Y. No. 05-CV-06204))
(N.D.N.Y. No. 05-CV-00422)	)	<i>County of Allegany v. Abbott Labs, et al.</i>)
<i>County of Albany v. Abbott Labs, et al.</i>	)	(W.D.N.Y. No. 05-CV-06231))
(N.D.N.Y. No. 05-CV-00425)	)	<i>County of Cattaraugus v. Abbott Labs, et al.</i>)
<i>County of Warren v. Abbott Labs, et al.</i>	)	(W.D.N.Y. No. 05-CV-06242))
(N.D.N.Y. No. 05-CV-00468)	)	<i>County of Genesee v. Abbott Labs, et al.</i>)
<i>County of Greene v. Abbott Labs, et al.</i>	)	(W.D.N.Y. No. 05-CV-06206))
(N.D.N.Y. No. 05-CV-00474)	)	<i>County of Wayne v. Abbott Labs, et al.</i>)
<i>County of Saratoga v. Abbott Labs, et al.</i>	)	(W.D.N.Y. No. 05-CV-06138))
(N.D.N.Y. No. 05-CV-00478)	)	<i>County of Monroe v. Abbott Labs, et al.</i>)
<i>County of Columbia v. Abbott Labs, et al.</i>	)	(W.D.N.Y. No. 05-CV-06148))
(N.D.N.Y. No. 05-CV-00867)	)	<i>County of Yates v. Abbott Labs, et al.</i>)
<i>Essex County v. Abbott Labs, et al.</i>	)	(W.D.N.Y. No. 05-CV-06172))
(N.D.N.Y. No. 05-CV-00878)	)	<i>County of Niagara v. Abbott Labs, et al.</i>)
<i>County of Chenango v. Abbott Labs, et al.</i>	)	(W.D.N.Y. No. 05-CV-06296))
(N.D.N.Y. No. 05-CV-00354)	)	<i>County of Seneca v. Abbott Labs, et al.</i>)
<i>County of Broome v. Abbott Labs, et al.</i>	)	(W.D.N.Y. No. 05-CV-06370))
(N.D.N.Y. No. 05-CV-00456)	)	<i>County of Orleans v. Abbott Labs, et al.</i>)
<i>County of Onondaga v. Abbott Labs, et al.</i>	)	(W.D.N.Y. No. 05-CV-06371))
(N.D.N.Y. No. 05-CV-00088)	)	<i>County of Ontario v. Abbott Labs, et al.</i>)
<i>County of Tompkins v. Abbott Labs, et al.</i>	)	(W.D.N.Y. No. 05-CV-06373))
(N.D.N.Y. No. 05-CV-00397)	)	<i>County of Schuyler v. Abbott Labs, et al.</i>)
<i>County of Cayuga v. Abbott Labs, et al.</i>	)	(W.D.N.Y. No. 05-CV-06387))
(N.D.N.Y. No. 05-CV-00423)	)	<i>County of Chemung v. Abbott Lab, et al.</i>)
<i>County of Madison v. Abbott Labs, et al.</i>	)	(W.D.N.Y. No. 05-CV-06744))
(N.D.N.Y. No. 05-CV-00714))		
<i>County of Cortland v. Abbott Labs, et al.</i>)		
(N.D.N.Y. No. 05-CV-00881))		

Defendant Merck & Co., Inc. (“Merck”) respectfully files this assented to motion to enlarge the time to respond to Plaintiffs’ Motion to Compel Discovery from Defendant Merck & Co., Inc. (the “Motion”).¹ Merck requests that the time to file its response be enlarged to October 5, 2009. In support, Merck states that:

1. Due to counsel’s previously scheduled obligations, the number of individual drugs and NDCs at issue, and the complexity of the issues raised, additional time is needed to adequately address the matters raised in the Motion. Merck requests leave to respond on or before October 5, 2009.

2. Merck’s counsel has communicated with Joanne Cicala, counsel for Plaintiffs the City of New York and New York Counties in this matter. Ms. Cicala has stated that Plaintiffs do not oppose Merck’s request for additional time.

¹ Plaintiffs’ Motion to Compel Discovery from Defendant Merck & Co., Inc. was filed on September 4, 2009 (Docket No. 6487).

Conclusion

For the above reasons, Merck respectfully requests that this motion be granted, and that Merck's time to respond to the Plaintiffs' Motion be enlarged to October 5, 2009.

Dated: September 17, 2009

Respectfully submitted,

HUGHES HUBBARD & REED LLP

By: /s/ Robert B. Funkhouser

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Attorneys for Defendant Merck & Co., Inc.

CERTIFICATE OF SERVICE

I certify that, on September 17, 2009, I caused a true and correct copy of the foregoing document to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending a copy to Lexis-Nexis for posting and notification to all parties.

/s/ Robert B. Funkhouser
Robert B. Funkhouser

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[PROPOSED] ORDER

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<i>County of Westchester v. Abbott Labs., et al.</i>)	(N.D.N.Y. No. 05-CV-00489))
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<i>County of Rockland v. Abbott Labs., et al.</i>)	(N.D.N.Y. No. 05-CV-00519))
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<i>County of Greene v. Abbott Labs, et al.</i>)	(W.D.N.Y. No. 05-CV-06206))
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<i>Essex County v. Abbott Labs, et al.</i>)	(W.D.N.Y. No. 05-CV-06172))
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<i>County of Chenango v. Abbott Labs, et al.</i>)	(W.D.N.Y. No. 05-CV-06296))
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<i>County of Cortland v. Abbott Labs, et al.</i>)		
(N.D.N.Y. No. 05-CV-00881))		

Upon consideration of Merck's Unopposed Motion For Enlargement of Time, it is hereby ORDERED THAT the motion is allowed and that Merck shall have until October 5, 2009, to respond to the Plaintiffs' Motion to Compel Discovery from Defendant Merck & Co., Inc.¹

Dated: _____, 2009

Honorable Marianne B. Bowler
United States Magistrate Judge

¹ Plaintiffs' Motion to Compel Discovery from Defendant Merck & Co., Inc. was filed on September 4, 2009 (Docket No. 6487).